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May 12, 2014

Via Email & FOIA Online

Freedom of Information Act Officer

EPA Region 10

r10.foia@epa.gov

Re: Freedom of Information Act Request

Dear Freedom of Information Act Officer:

This is a Freedom of Information Act ("FOIA", 5 U.S.C. Section 552) request on behalf of Puget Soundkeeper Alliance ("Soundkeeper"). This request concerns the Environmental Protection Agency's ("EPA's") involvement in the Washington Department of Ecology's development of the Clean Water Act ("CWA") National Pollutant Discharge Elimination System ("NPDES") permit for Seattle Iron & Metals, Corp., located at 601 S. Myrtle Street, Seattle, Washington, on the bank of the Lower Duwamish Waterway.

I. FOIA Request

Please provide the following documents dated on or after January 1, 2007: (1) Kristine Flint's (Remedial Project Manager, EPA Region 10, retired) entire file on Seattle Iron & Metals Corp.; and (2) all documents regarding EPA's review or discussion of Seattle Iron & Metals Corp.'s National Pollutant Discharge Elimination System permit number WA003196, or the terms of that permit.

The following EPA Region 10 staff members are likely to have possession of responsive documents: whoever took possession of Kristine Flint's files when she retired from her position as Remedial Project Manager; Rebecca Chu, Remedial Project Manager; Charles Ordine, Attorney Advisor, Margaret McCauley, Office of Compliance & Enforcement; Christopher Hall, Office of Environmental Assessment; Jed Januch, Office of Environmental Assessment Laboratory; Jon Klemesrud, Inspection & Enforcement Management Unit; Karen Burgess, NPDES State Oversight Team Lead; Lisa Olson, NPDES Permits Unit; Michael Lidgard, Manager, NPDES Permits Unit; Margaret Johnson; Dan Opalski; Thomas Eaton; John Palmer; and Allison Hiltner.

In answering this request, please consider "documents" to include: reports, memoranda, internal correspondence, including electronic mail or other communications, policy and scientific reports, meeting notes, and summaries of conversations and interviews, computer records, and other forms of written communication, including internal staff memoranda. In your response, please identify which documents correspond to which requests below. This request also covers any non-identical duplicates of records that by reason of notation, attachment, or other alteration or supplement include any information not contained in the original record. Additionally, this request is not meant to be exclusive of other records

which, though not specifically requested, would have a reasonable relationship to the subject matter of this request.

This request applies to all described documents whose disclosure is not expressly prohibited by law. If you should seek to prevent disclosure of any of the requested records, we request that you: (i) identify each such document with particularity (including title, subject, date, author, recipient, and parties copied), and (ii) explain in full the basis on which non-disclosure is sought. In the event that you determine that any of the requested documents cannot be disclosed in their entirety, we request that you release any reasonably redacted or segregable material that may be separated and released. Furthermore, for any documents, or portions thereof, that are determined to be potentially exempt from disclosure, we request that you exercise your discretion to disclose the materials, absent a finding that sound grounds exist to invoke an exemption.

II. Fee Waiver

Puget Soundkeeper Alliance is gathering information on regulation of Seattle Iron & Metals, Corp.'s discharges and emissions of pollution to the Lower Duwamish Waterway and its surrounding area that is of current interest to the public because the Duwamish Waterway is an important but grossly degraded natural resource. Puget Soundkeeper Alliance is a 501(c)(3) not-for-profit organization dedicated to protecting and preserving Puget Sound through education and outreach, and by tracking down and stopping toxic pollution entering its waters. Soundkeeper is a founding member of the Waterkeeper Alliance.

Soundkeeper has a CWA and Resource Conservation and Recovery Act citizen enforcement suit pending against Seattle Iron & Metals in the U.S. District Court for the Western District of Washington. Soundkeeper also appealed the Washington Department of Ecology's most recent iteration of Seattle Iron & Metals' NPDES permit to the state's Pollution Control Hearings Board. The pending permit appeal will address the appropriate regulation of discharges and emissions of toxic pollutants, including PCBs and other persistent bioaccumulative toxic constituents to the Lower Duwamish Waterway Superfund site.

Please note that Soundkeeper is entitled to receive the first 100 pages of responsive materials at no cost. 40 C.F.R. Section 2.107(c)(1)(iv).

Soundkeeper further requests a waiver of all fees under 5 U.S.C. Section 552(a)(4)(A)(iii), and EPA's FOIA regulations. The information Soundkeeper seeks is in the public interest because it will contribute significantly to public understanding of the operations or activities of the government and is not primarily in Puget Soundkeeper Alliance's commercial interest. As specified below, Soundkeeper meets the criteria for a fee waiver set forth in EPA's FOIA regulations at 40 C.F.R. Section 2.107(l)(2)(i)-(v).

Soundkeeper's request concerns the operations or activities of government, specifically the EPA's input into NPDES permit terms; EPA's role in pollution source control in the Lower Duwamish Waterway Superfund clean-up; and EPA's oversight of the Department of Ecology's regulation of said source control, Ecology's administration of the NPDES permit program, and Ecology's regulation of Seattle Iron & Metals' discharges in particular.

Also, the requested disclosure is likely to contribute to public understanding of pollution and recontamination in the Lower Duwamish Waterway, as well as the appropriate

regulatory tools to protect the receiving environment. As the lead agency in the Lower Duwamish Waterway Superfund cleanup, EPA's commentary on these issues has significant informative value to the public. Similarly, Soundkeeper has significant expertise relevant to pollution and pollution control in the Lower Duwamish Waterway, and discharges from the Seattle Iron & Metals facility. Soundkeeper's extensive experience with water quality advocacy enables it to effectively convey the requested information to the public.

Soundkeeper plans to disseminate this information to the public at large through the pending permit appeal process, which will result in a publically-available decision; Soundkeeper's extensive participation in the public processes related to the Superfund clean-up; Soundkeeper's newsletter to its approximately 1,385 members, which regularly includes updates on pending litigation and permit appeals; and Soundkeeper's outreach to the public via major media outlets. Soundkeeper's advocacy with respect to Seattle Iron & Metals, the Lower Duwamish Superfund clean-up, and other closely related issues has already garnered significant media attention. *See, e.g.*, EarthFix, OPB, <http://earthfix.opb.org/water/article/anti-pollution-goals-elude-clean-water-act-enforce/> (in-depth coverage of Soundkeeper's enforcement action against Seattle Iron & Metals, and related public policy issues); Puget Soundkeeper Alliance, <http://www.pugetsoundkeeper.org/category/media-coverage/> (listing recent media coverage featuring Soundkeeper).

In addition, the release of this information will have a significant impact on public understanding because there is a lack of knowledge on the part of the public as to how the various government agencies involved in the Superfund clean-up and related source control efforts actually implement their duties when it comes to specific sources of pollution. The public also lacks knowledge of the how different government agencies' and departments' competing policies for pollution control in the Lower Duwamish Waterway are reconciled. The information Soundkeeper seeks bears directly on these issues, thus Soundkeeper's analysis and dissemination of the information will make the public better informed about this particular government activity.

III. Instructions for Delivery

Please provide the requested records as you collect and review them. We prefer electronic versions of the requested records wherever possible. Electronic copies should be directed to the undersigned at clairet@igc.org or to the letterhead address on a CD.

I look forward to your response within the 20 working days, as outlined by the statute. If there is anything I can do to help clarify or expedite this request, please do not hesitate to contact me.

Sincerely,

SMITH & LONEY, PLLC

By: /s/Claire E. Tonry
Claire E. Tonry